

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

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|--------------------|---|-----------|
| KELVIN W. SELLARS, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | 1:18CV956 |
| |) | |
| ERIK A. HOOKS, |) | |
| |) | |
| Respondent. |) | |

ORDER

On June 19, 2019, the Recommendation of the United States Magistrate Judge was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. [Docs. #14, #15.] Petitioner objected to the Recommendation. [Doc. #16.]

The court has appropriately reviewed the portions of the Recommendation to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that Respondent's motion for summary judgment [Doc. #5] is **GRANTED**, and that the Petition [Doc. #1], as amended, is **DISMISSED**, for failure to apply to the United States Court of Appeals for the Fourth Circuit for an order authorizing this district court to consider the current amended petition as required by 28 U.S.C. § 2244. A judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial

issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 13th day of September, 2019.

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge